

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

v.

21-CR-8-LJV

ERIK BERG,

Defendant.

INFORMATION
(Title 18 U.S.C. § 1349)

COUNT 1

The United States Attorney Charges That:

1. At all times relevant to this Information, the insurance programs provided by Blue Cross and Blue Shield of Western New York, dba HealthNow ("BCBS"), and the prescription coverage provided by the Verizon Medical Expense Plan for New York and New England Associates and National Grid USA, are "health care benefit programs," as that term is defined in Title 18, United States Code, Section 24 (b).

2. Between in or about June 2015 and in or about October 2016, in the Western District of New York and elsewhere, the defendant, ERIK BERG ("BERG"), did knowingly, willfully and unlawfully combine, conspire, and agree with others, known and unknown, to execute a scheme and artifice to defraud the aforementioned health care benefit programs, and to obtain, by means of false and fraudulent pretenses, representations, and promises, money owned by and under the custody and control of said health care benefit programs, in

connection with the delivery of and payment for health care benefits and services, in violation of Title 18, United States Code, Section 1347.

3. In or about 2014, the exact date being unknown, BERG began marketing “compounded medications,” such as pain patches, pain creams, and scar creams, which were tailored by others to contain ingredients that carried high reimbursement rates from health insurers, rather than ingredients that provided effective medical treatment. The formulations of the medications were, at times, modified to permit reimbursement from health insurance companies and/or to maximize reimbursement rates. BERG became aware of this practice in or about June 2015, and continued to market the medications.

4. It was part of the conspiracy that BERG, and his associates, identified patients whose health insurance covered the medications, and marketed those medications directly to the patients, without regard to medical necessity. In most cases, BERG and/or others involved in the conspiracy then assisted the patients in obtaining prescriptions for the compounded medications, without the patient having had a medical visit with the doctor issuing the prescription.

5. In furtherance of the conspiracy, BERG also invited other representatives to market the compounded pharmaceuticals, and trained, paid, and communicated with those representatives. BERG received as commission a percentage of the reimbursement rate of

each prescription he personally marketed which was approved and filled. BERG also received as commission a percentage of payments for prescriptions marketed and filled by those representatives he brought into the company.

6. In total, as a result of the above-described conspiracy, and the fraudulent conduct of the defendant, ERIK BERG, and those representatives he brought into the company, the health care benefit programs provided by BCBS, the Verizon Medical Expense Plan for New York and New England Associates, and National Grid USA, paid approximately \$7,816,085 for compounded prescriptions fraudulently filled, as described above, resulting in a loss of \$7,352 to BCBS; \$2,548,120 to the Verizon Medical Expense Plan for New York and New England Associates, and \$5,260,613 to National Grid USA.

All in violation of Title 18, United States Code, Section 1349.

DATED: Buffalo, New York, November 22, 2021.

TRINI E. ROSS
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BY:



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